

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.3349/2015

Miss Kavita Madhukar Dhage

...Versus...

The State of Maharashtra through Secretary to the Govt. of Maharashtra in the
Department of Tribal Development, Mantralaya, Mumbai – 32 and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.P. Marpakwar, Advocate for petitioner
Shri D.B. Patel, AGP for respondent nos.1 & 2
Shri N.W. Almekar, Advocate for respondent nos.3 and 4

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : 03.09.2015

By this petition, the petitioner seeks the protection of her services in view of the judgment of the Full Bench, reported in **2015 (1) Mh.L.J. 457 (Arun s/o Vishwanath Sonone...Versus...State of Maharashtra and others)**.

The petitioner was appointed by the respondent – Bank as a clerk-cum-typist on 17.4.1989 i.e. before the cut off date. The appointment of the petitioner was on the post earmarked for the Scheduled Tribes and since the petitioner claimed to belong to the Mahadeo Koli Scheduled Tribe, the caste claim of the petitioner was referred to the Scrutiny Committee for verification. The Scrutiny Committee invalidated the claim of the petitioner on 7.1.2002. Since the respondent – Bank was not aware of the

invalidation of the caste claim of the petitioner for a long time, the Bank sought to terminate the services of the petitioner by the notice dated 3.6.2015. The petitioner has challenged the action of the respondent by this petition and has sought the protection of her services on the basis of the judgment of the Full Bench of this Court, which in turn has relied on the judgments of the Hon'ble Supreme Court granting protection to the employees in service.

On hearing the learned Counsel for the parties and on a perusal of the order of the Scrutiny Committee, it appears that the services of the petitioner are required to be protected in view of the Full Bench judgment, reported in **2015 (1) Mh.L.J. 457** as the petitioner was appointed before the cut off date and there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently secured the benefits meant for the 'Mahadeo Koli' Scheduled Tribe. There is nothing in the order of the Scrutiny Committee to show that the petitioner had fraudulently claimed the benefits and the caste claim of the petitioner was rejected only because the petitioner could not prove the same. In the aforesaid set of facts, the case of the petitioner would be squarely covered by the judgment of the Full Bench, reported in **2015 (1) Mh.L.J. 457**.

Hence, for the reasons aforesaid, the writ petition is allowed. The impugned notice is quashed and set aside. The respondent is directed to protect the services of the petitioner on the condition that the petitioner furnishes an undertaking in this Court and to the respondent - Bank within a period of four weeks that neither the petitioner nor her progeny would claim the benefits meant for the 'Mahadeo Koli Scheduled Tribes', in future.

The petitioner would also not be entitled to retain the benefits of the promotion, if they are secured by the petitioner only on the basis of her caste claim.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar